

# HB0068S02 compared with HB0068S01

~~{Omitted text}~~ shows text that was in HB0068S01 but was omitted in HB0068S02

inserted text shows text that was not in HB0068S01 but was inserted into HB0068S02

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1

## Insurance Funds Amendments

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor:Evan J. Vickers

2

### 3 LONG TITLE

#### 4 General Description:

5 This bill amends provisions related to insurance funds.

#### 6 Highlighted Provisions:

7 This bill:

8 ▶ defines terms;

9 ▶ clarifies the circumstances under which a public agency insurance mutual or a reserve fund is exempt from the Insurance Code;

11 ▶ exempts a public agency insurance mutual ~~{and a reserve fund}~~ from the State Money Management Act;

13 ▶ authorizes a public agency insurance mutual or reserve fund to create one or more captive insurance companies;

15 ▶ establishes requirements for the state treasurer handling a public agency insurance mutual's or reserve fund's investments; ~~{and}~~

16 ▶ **provides that the state treasurer shall invest the funds of a reserve fund; and**

17 ▶ makes technical changes.

HB0068S01

## HB0068S01 compared with HB0068S02

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### AMENDS:

**11-13-103** , as last amended by Laws of Utah 2023, Chapter 16 , as last amended by Laws of Utah 2023, Chapter 16

**11-13-502** , as last amended by Laws of Utah 2016, Chapter 382 , as last amended by Laws of Utah 2016, Chapter 382

**31A-1-103** , as last amended by Laws of Utah 2024, Chapter 120 , as last amended by Laws of Utah 2024, Chapter 120

**51-7-2** , as last amended by Laws of Utah 2024, Chapters 418, 492 and 510 , as last amended by Laws of Utah 2024, Chapters 418, 492 and 510

**51-7-11** , as last amended by Laws of Utah 2019, Chapter 56 , as last amended by Laws of Utah 2019, Chapter 56

### ENACTS:

**11-13-533** , Utah Code Annotated 1953 , Utah Code Annotated 1953

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### *Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **11-13-103** is amended to read:

#### **11-13-103. Definitions.**

As used in this chapter:

(1)

(a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

## HB0068S01 compared with HB0068S02

- 45 (2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and  
its successors.
- 47 (3) "Candidate" means one or more of:
- 48 (a) the state;
- 49 (b) a county, municipality, school district, special district, special service district, or other political  
subdivision of the state; and
- 51 (c) a prosecution district.
- 52 (4) "Commercial project entity" means a project entity, defined in Subsection (18), that:
- 53 (a) has no taxing authority; and
- 54 (b) is not supported in whole or in part by and does not expend or disburse tax revenues.
- 55 (5) "Direct impacts" means an increase in the need for public facilities or services that is attributable  
to the project or facilities providing additional project capacity, except impacts resulting from the  
construction or operation of a facility that is:
- 58 (a) owned by an owner other than the owner of the project or of the facilities providing additional  
project capacity; and
- 60 (b) used to furnish fuel, construction, or operation materials for use in the project.
- 61 (6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).
- 63 (7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection  
11-13-203(4).
- 65 (8)
- (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal  
entity, includes any of the following that meets the requirements of Subsection (8)(b):
- 68 (i) generation capacity;
- 69 (ii) generation output; or
- 70 (iii) an electric energy production facility.
- 71 (b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed  
by the qualified energy services interlocal entity to perform the qualified energy services interlocal  
entity's contractual or legal obligations to any of its members.
- 75 (9)

## HB0068S01 compared with HB0068S02

- (a) "Facilities providing replacement project capacity" means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.
- 79 (b) "Facilities providing replacement project capacity" includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:
- 82 (i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or
- 85 (ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an ownership, leasehold, right-of-way, or permitted interest.
- 89 (10) "Governing authority" means a governing board or joint administrator.
- 90 (11)
- (a) "Governing board" means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.
- 92 (b) "Governing board" includes a board of directors described in an agreement, as amended, that creates a project entity.
- 94 (c) "Governing board" does not include a board as defined in Subsection (2).
- 95 (12) "Interlocal entity" means:
- 96 (a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or
- 98 (b) a separate legal or administrative entity created under Section 11-13-205.
- 99 (13) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.
- 101 (14) "Joint or cooperative undertaking" means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.
- 103 (15) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.
- 105 (16) "Out-of-state public agency" means a public agency as defined in Subsection (19)(c), (d), or (e).
- 107 (17)
- (a) "Project":

108

## HB0068S01 compared with HB0068S02

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

110 (ii) includes fuel facilities, fuel production facilities, fuel transportation facilities, energy storage facilities, or water facilities that are:

112 (A) owned by that Utah interlocal entity or electric interlocal entity; and

113 (B) required for the generation and transmission facility.

114 (b) "Project" includes a project entity's ownership interest in:

115 (i) facilities that provide additional project capacity;

116 (ii) facilities providing replacement project capacity;

117 (iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project; and

119 (iv) a Utah interlocal energy hub, as defined in Section 11-13-602.

120 (18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

122 (19) "Public agency" means:

123 (a) a city, town, county, school district, special district, special service district, an interlocal entity, or other political subdivision of the state;

125 (b) the state or any department, division, or agency of the state;

126 (c) any agency of the United States;

127 (d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; or

130 (e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

133 (20) "Public agency insurance mutual" means the same as that term is defined in Subsection 31A-1-103(7).

135 [(20)] (21) "Qualified energy services interlocal entity" means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

139

## HB0068S01 compared with HB0068S02

[~~(21)~~] (22) "Replacement project capacity" means electric generating capacity or transmission capacity that:

- 141 (a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and
- 143 (b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected with the site of a project, regardless of whether:
  - 145 (i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project existing before installation of the capacity replacing existing capacity;
  - 148 (ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or
  - 152 (iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

156 (~~(23)~~) "Reserve fund" means the same as that term is defined in Subsection 31A-1-103(7).

157 [~~(22)~~] (24) "Transportation reinvestment zone" means an area created by two or more public agencies by interlocal agreement to capture increased property or sales tax revenue generated by a transportation infrastructure project as described in Section 11-13-227.

160 [~~(23)~~] (25) "Utah interlocal entity":

- 161 (a) means an interlocal entity described in Subsection 11-13-203(2); and
- 162 (b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

164 [~~(24)~~] (26) "Utah public agency" means a public agency under Subsection (19)(a) or (b).

165 Section 2. Section **11-13-502** is amended to read:

166 **11-13-502. Application -- Conflicts with federal law -- Other applicable law.**

- 167 (1) This part does not apply to a taxed interlocal entity as defined in Section 11-13-602.
- 168 (2) Except as provided in Subsection (1), and notwithstanding any other provision of law, this part governs an interlocal entity's fiscal procedures but only to the extent that the provision does not conflict with or cause an interlocal entity to be noncompliant with federal law.
- 172 (3) [~~An~~] Except as provided in Subsection (4), an interlocal entity is subject to Title 51, Chapter 7, State Money Management Act.

174

## HB0068S01 compared with HB0068S02

(4) A public agency insurance mutual {~~or a reserve fund~~} is not subject to Title 51, Chapter 7, State Money Management Act.

Section 3. Section 3 is enacted to read:

**11-13-533. Public agency insurance mutuals and reserve funds -- Investment standard for public agency insurance mutuals {~~and reserve funds~~} .**

(1) A public agency insurance mutual or reserve fund may form one or more captive insurance companies in accordance with Title 31A, Chapter 37, Captive Insurance Companies Act.

(2) The state treasurer shall invest the public agency insurance mutual's assets with the primary goal of providing for the stability, income, and growth of the principal.

(3) Nothing in this section requires a specific outcome from investing.

(4) The state treasurer may employ professional asset managers to assist in the investment of the public agency insurance mutual's assets.

(5)

(a) To accomplish the primary goal described in Subsection (2), the state treasurer shall invest and manage the public agency insurance mutual's assets as a prudent investor would by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the investments; and

(ii) exercising reasonable care, skill, and caution to meet the standard of care of a prudent investor.

(b) In determining whether the state treasurer has met the standard of care of a prudent investor, a court shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets:

(A) not in isolation, but in the context of an investment portfolio as a whole; and

(B) as part of an overall investment strategy that has risk and return objectives that are reasonably suited to the investments.

Section 4. Section **31A-1-103** is amended to read:

**31A-1-103. Scope and applicability of title.**

(1) This title does not apply to:

(a) a retainer contract made by an attorney-at-law:

(i) with an individual client; and

## HB0068S01 compared with HB0068S02

- 187 (ii) under which fees are based on estimates of the nature and amount of services to be provided to the  
specific client;
- 189 (b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved  
in the same or closely related legal matters;
- 191 (c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice  
on simple legal matters, either alone or in combination with referral services, or the promise of fee  
discounts for handling other legal matters;
- 194 (d) limited legal assistance on an informal basis involving neither an express contractual obligation  
nor reasonable expectations, in the context of an employment, membership, educational, or similar  
relationship;
- 197 (e) legal assistance by employee organizations to their members in matters relating to employment;
- 199 (f) death, accident, health, or disability benefits provided to~~[-a person-]~~ an individual by an organization  
or ~~[its]~~ the organization's affiliate if:
- 201 (i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had  
~~[its]~~ the organization's principal place of business in Utah for at least five years;
- 204 (ii) the ~~[person]~~ individual is not an employee of the organization; and
- 205 (iii)
- (A) substantially all the ~~[person's]~~ individual's time in the organization is spent providing voluntary  
services:
- 207 (I) in furtherance of the organization's purposes;
- 208 (II) for a designated period of time; and
- 209 (III) for which no compensation, other than expenses, is paid; or
- 210 (B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months;  
or
- 212 (g) a prepaid contract of limited duration that provides for scheduled maintenance only.
- 213 (2)
- (a) This title restricts otherwise legitimate business activity.
- 214 (b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law.
- 216 (3) Except as otherwise expressly provided, this title does not apply to:
- 217 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal  
Employee Retirement Income Security Act of 1974, as amended;



## HB0068S01 compared with HB0068S02

- 219 (b) ocean marine insurance;
- 220 (c) death, accident, health, or disability benefits provided by an organization that:
- 221 (i) has as the organization's principal purpose to achieve charitable, educational, social, or religious  
objectives rather than to provide death, accident, health, or disability benefits;
- 224 (ii) does not incur a legal obligation to pay a specified amount;
- 225 (iii) does not create reasonable expectations of receiving a specified amount on the part of an insured  
person; and
- 227 (iv) is not a health care sharing ministry that provides that a participant make a contribution to pay  
another participant's qualified expenses with no assumption of risk or promise to pay.
- 230 (d) other business specified in rules adopted by the commissioner on a finding that:
- 231 (i) the transaction of the business in this state does not require regulation for the protection of the  
interests of the residents of this state; or
- 233 (ii) it would be impracticable to require compliance with this title;
- 234 (e) except as provided in Subsection (4), a transaction independently procured through negotiations  
under Section 31A-15-104;
- 236 (f) self-insurance;
- 237 (g) reinsurance;
- 238 (h) subject to Subsection (5), an employee or labor union group insurance policy covering risks in this  
state or an employee or labor union blanket insurance policy covering risks in this state, if:
- 241 (i) the policyholder exists primarily for purposes other than to procure insurance;
- 242 (ii) the policyholder:
- 243 (A) is not a resident of this state;
- 244 (B) is not a domestic corporation; or
- 245 (C) does not have the policyholder's principal office in this state;
- 246 (iii) no more than 25% of the certificate holders or insureds are residents of this state;
- 247 (iv) on request of the commissioner, the insurer files with the department a copy of the policy and a  
copy of each form or certificate; and
- 249 (v)
- (A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's business, as if the  
insurer were authorized to do business in this state; and

251

## HB0068S01 compared with HB0068S02

- (B) the insurer provides the commissioner with the security the commissioner considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;
- 254 (i) to the extent provided in Subsection (6):
- 255 (i) a manufacturer's or seller's warranty; and
- 256 (ii) a manufacturer's or seller's service contract;
- 257 (j) except to the extent provided in Subsection (7), a public agency insurance mutual;
- 258 (k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset protection waiver; or
- 260 (l) a health care sharing ministry, if the health care sharing ministry:
- 261 (i) provides to each participant upon enrollment and annually thereafter a written statement of nationwide data from the preceding calendar year that lists the total dollar amount of contributions provided to participants toward qualified expenses; and
- 265 (ii) includes a written disclaimer, titled "Notice", on or with each application and all guideline materials that states:
- 267 (A) the health care sharing ministry is not an insurance company;
- 268 (B) nothing the health care sharing ministry offers or provides is an insurance policy, including the health care sharing ministry's guidelines or plan of operations;
- 271 (C) participation in the health care sharing ministry is entirely voluntary and no participant is compelled by law to contribute to another participant's expenses;
- 273 (D) participation in the health care sharing ministry or subscription to any of the health care sharing ministry's services is not insurance; and
- 275 (E) each participant is always personally responsible for the participant's expenses regardless of whether the participant receives payment for the expenses through the health care sharing ministry or whether this health care sharing ministry continues to operate.
- 279 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.
- 281 (5)
- (a) After a hearing, the commissioner may order an insurer of certain group insurance policies or blanket insurance policies to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.

285

## HB0068S01 compared with HB0068S02

(b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:

- 288 (i) the insurer to be authorized to do business in this state; or  
289 (ii) that any of the insurer's transactions be subject to this title.

290 (c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and health insurance.

292 (6)

(a) As used in Subsection (3)(i) and this Subsection (6):

293 (i) [~~"manufacturer's-~~] "Manufacturer's or seller's service contract" means a service contract:

295 (A) made available by:

296 (I) a manufacturer of a product;

297 (II) a seller of a product; or

298 (III) an affiliate of a manufacturer or seller of a product;

299 (B) made available:

300 (I) on one or more specific products; or

301 (II) on products that are components of a system; and

302 (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to be provided under the service contract including, if the manufacturer's or seller's service contract designates, providing parts and labor{~~;~~{~~}~~ ~~;~~}

305 (ii) [~~"manufacturer's-~~] "Manufacturer's or seller's warranty" means the guaranty of:

306 (A)

(I) the manufacturer of a product;

307 (II) a seller of a product; or

308 (III) an affiliate of a manufacturer or seller of a product;

309 (B)

(I) on one or more specific products; or

310 (II) on products that are components of a system; and

311 (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services to be provided under the warranty, including, if the manufacturer's or seller's warranty designates, providing parts and labor[~~;~~and] .

## HB0068S01 compared with HB0068S02

- 314 (iii) [~~"service"~~] "Service contract" means the same as that term is defined in Section 31A-6a-101.
- 316 (b) A manufacturer's or seller's warranty may be designated as:
- 317 (i) a warranty;
- 318 (ii) a guaranty; or
- 319 (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).
- 320 (c) This title does not apply to:
- 321 (i) a manufacturer's or seller's warranty;
- 322 (ii) a manufacturer's or seller's service contract paid for with consideration that is in addition to the consideration paid for the product itself; and
- 324 (iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's or seller's service contract if:
- 326 (A) the service contract is paid for with consideration that is in addition to the consideration paid for the product itself;
- 328 (B) the service contract is for the repair or maintenance of goods;
- 329 (C) the purchase price of the product is \$3,700 or less;
- 330 (D) the product is not a motor vehicle; and
- 331 (E) the product is not the subject of a home warranty service contract.
- 332 (d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:
- 336 (i) at the time of the purchase of the product; or
- 337 (ii) at a time other than the time of the purchase of the product.
- 338 (7)
- (a) For purposes of this Subsection (7)[,] :
- 339 (i) [~~"public"~~] "Public agency insurance mutual" means an entity~~;~~[-]
- 362 (A) {~~;~~
- 340 {(A)} formed by two or more political subdivisions or public agencies of the state[;]
- 341 [(i)] under Title 11, Chapter 13, Interlocal Cooperation Act; and
- 342 [(ii) ~~for the purpose of providing for the political subdivisions or public agencies;~~]
- 343 [(A) ~~subject to Subsection (7)(b), insurance coverage; or~~]
- 344 [(B) ~~risk management.~~]

## HB0068S01 compared with HB0068S02

- 345 (B) that issues an insurance policy, subject to Subsection (7)(b), or provides risk management, to a  
political subdivision or public agency in the state under Title 11, Chapter 13, Interlocal Cooperation  
Act.
- 348 (ii) "Reserve fund" means a fund established:
- 349 (A) to fund a loss to a political subdivision's assets; and
- 350 (B) by one or more political { subdivisions } ~~subdivision~~ for a purpose identified in Section 63G-7-703.
- 352 (b) ~~[Notwithstanding Subsection (7)(a)(ii)(A), a]~~ A public agency insurance mutual or reserve fund  
may not provide health insurance unless the public agency insurance mutual provides the health  
insurance using:
- 355 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;
- 356 (ii) an admitted insurer; or
- 357 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program  
Act.
- 359 (c) ~~[Except for this Subsection (7), a]~~ A public agency insurance mutual ~~or reserve fund~~ is exempt from  
this title except as provided in the provisions in Sections 31A-3-301 and 31A-3-303 describing the  
surplus lines tax that { is } ~~are~~ applicable to a policyholder.
- 362 (d) A public agency insurance mutual is considered to be a governmental entity and political  
subdivision of the state with all of the rights, privileges, and immunities of a governmental entity  
or political subdivision of the state including all the rights and benefits of Title 63G, Chapter 7,  
Governmental Immunity Act of Utah.
- 388 Section 5. Section **51-7-2** is amended to read:
- 389 **51-7-2. Exemptions from chapter.**
- 368 (1) Except as provided in Subsection (2), the following funds are exempt from this chapter:
- 369 (a) funds invested in accordance with the participating employees' designation or direction pursuant to a  
public employees' deferred compensation plan established and operated in compliance with Section  
457 of the Internal Revenue Code of 1986, as amended;
- 373 (b) funds of the Utah State Retirement Board;
- 374 (c) funds of the Utah Housing Corporation;
- 375 (d) endowment funds of higher education institutions, including funds of the Higher Education Student  
Success Endowment, created in Section 53B-7-802;

377

## HB0068S01 compared with HB0068S02

- (e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;
- 379 (f) the State Post-Retirement Benefits Trust Fund;
- 380 (g) the funds of the Utah Educational Savings Plan;
- 381 (h) funds of the permanent state trust fund created by and operated under Utah
- 382 Constitution, Article XXII, Section 4;
- 383 (i) the funds in the Navajo Trust Fund;
- 384 (j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;
- 385 (k) the funds in the Employers' Reinsurance Fund;
- 386 (l) the funds in the Uninsured Employers' Fund;
- 387 (m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section
- 26B-1-331;
- 389 (n) the funds in the Risk Management Fund created in Section 63A-4-201;
- 390 (o) the Utah fund of funds created in Section 63N-6-401;
- 391 (p) the funds deposited into the Utah Homes Investment Program from the Transportation Infrastructure
- General Fund Support Subfund created in Section 72-2-134;[-and]
- 394 (q) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts invested by the
- state treasurer in precious metals:
- 396 (i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;
- 397 (ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;
- 398 (iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and
- 399 (iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section
- 63J-1-315[-] ; and
- 401 (r) except as provided in Section 11-13-533{~~:~~}, the funds of a public agency insurance mutual as that
- term is defined in Subection 31A-1-103(7)(a).
- 425 (2) {the funds of a public agency insurance mutual as that term is defined in Section 31A-1-103; and}
- 404 {(ii)} {the funds of a reserve fund as that term is defined in Section 31A-1-103.}
- 405 {(2)} Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan,
- the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).
- 408

## HB0068S01 compared with HB0068S02

(3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that administers a fund described in Subsection (1) may hold a closed meeting to discuss the sale or purchase of identifiable securities, investment funds, or investment contracts.

411 (4) A paper, electronic, or other depiction or record of information relating to investment activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

434 Section 6. Section **51-7-11** is amended to read:

435 **51-7-11. Authorized deposits or investments of public funds.**

416 (1)

(a) Except as provided in Subsections (1)(b) through (1)(d), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

419 (b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.

421 (c) A public treasurer may make a deposit in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

423 (d) The state treasurer is exempt from the requirement to conduct investment transactions through a certified dealer under Subsection (1)(a).

425 (2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.

427 (3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section 51-7-17:

429 (a) negotiable or nonnegotiable deposits of qualified depositories;

430 (b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:

432 (i) Government National Mortgage Association mortgage pools;

433 (ii) Federal Home Loan Mortgage Corporation mortgage pools;

434 (iii) Federal National Mortgage Corporation mortgage pools;

435 (iv) Small Business Administration loan pools;

436 (v) Federal Agriculture Mortgage Corporation pools; or

437 (vi) other investments authorized by this section;

## HB0068S01 compared with HB0068S02

- 438 (c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers,  
permitted depositories, or qualified depositories using collateral consisting of:
- 440 (i) Government National Mortgage Association mortgage pools;
- 441 (ii) Federal Home Loan Mortgage Corporation mortgage pools;
- 442 (iii) Federal National Mortgage Corporation mortgage pools;
- 443 (iv) Small Business Administration loan pools; or
- 444 (v) other investments authorized by this section;
- 445 (d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating  
organizations, which has a remaining term to maturity of:
- 447 (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or
- 448 (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);
- 449 (e) bankers' acceptances that:
- 450 (i) are eligible for discount at a Federal Reserve bank; and
- 451 (ii) have a remaining term to maturity of 270 days or fewer;
- 452 (f) fixed rate negotiable deposits issued by a permitted depository that have a remaining term to  
maturity of 365 days or fewer;
- 454 (g) obligations of the United States Treasury, including United States Treasury bills, United States  
Treasury notes, and United States Treasury bonds that, unless the funds invested are pledged or  
otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity  
of:
- 458 (i) five years or less;
- 479 (ii) ~~{or~~
- 459 ~~{(i)}~~ if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a  
city of the first class, or a county of the first class, 10 years or less; ~~{or}~~
- 462 ~~{(iii) if the funds are invested by a }~~ ~~[public agency insurance mutual]~~ reserve fund ~~{, as defined in~~  
Subsection 31A-1-103(7)(a), 20 years or less;}
- 464 (h) obligations other than mortgage pools and other mortgage derivative products that:
- 465 (i) are issued by, or fully guaranteed as to principal and interest by, the following agencies or  
instrumentalities of the United States in which a market is made by a primary reporting government  
securities dealer, unless the agency or instrumentality has become private and is no longer  
considered to be a government entity:



## HB0068S01 compared with HB0068S02

- 470 (A) Federal Farm Credit banks;  
471 (B) Federal Home Loan banks;  
472 (C) Federal National Mortgage Association;  
473 (D) Federal Home Loan Mortgage Corporation;  
474 (E) Federal Agriculture Mortgage Corporation; and  
475 (F) Tennessee Valley Authority; and  
476 (ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account,  
have a remaining term to final maturity of:  
478 (A) five years or less;  
499 ~~(B)~~ ~~{-or~~  
479 ~~{(B)}~~ if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a  
city of the first class, or a county of the first class, 10 years or less; ~~{ or }~~  
482 ~~{(C) if the funds are invested by a }~~ ~~public agency insurance mutual~~ reserve fund ~~{, as defined in~~  
Subsection 31A-1-103(7)(a), 20 years or less; }  
484 (i) fixed rate corporate obligations that:  
485 (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical  
rating organizations;  
487 (ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;  
489 (iii) are publicly traded; and  
490 (iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value  
or better, within 365 days;  
492 (j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city  
or town, school district, or other political subdivision of the state, including bonds offered on a  
when-issued basis without regard to the limitations described in Subsection (7) that, unless the  
funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a  
remaining term to final maturity of:  
498 (i) five years or less;  
519 (ii) ~~{-or~~  
499 ~~{(ii)}~~ if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a  
city of the first class, or a county of the first class, 10 years or less; ~~{ or }~~  
502

## HB0068S01 compared with HB0068S02

{(iii) if the funds are invested by a } ~~[public agency insurance mutual]~~ reserve fund {, as defined in Subsection 31A-1-103(7)(a), 20 years or less;}

- 504 (k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:
- 511 (i) five years or less;
- 512 (ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or
- 515 (iii) if the funds are invested by a ~~[public agency insurance mutual]~~ reserve fund, as defined in Subsection 31A-1-103(7)(a), 20 years or less;
- 517 (l) shares or certificates in a money market mutual fund;
- 518 (m) variable rate negotiable deposits that:
- 519 (i) are issued by a qualified depository or a permitted depository;
- 520 (ii) are repriced at least semiannually; and
- 521 (iii) have a remaining term to final maturity not to exceed three years;
- 522 (n) variable rate securities that:
- 523 (i)
- (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;
- 525 (B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;
- 527 (C) are publicly traded;
- 528 (D) are repriced at least semiannually; and
- 529 (E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;
- 531 (ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions;
- 534 (o) reciprocal deposits made in accordance with Subsection 51-7-17(4); and
- 535 (p) negotiable brokered certificates of deposit made in accordance with Subsection 51-7-17(4).

## HB0068S01 compared with HB0068S02

- 537 (4) The following public funds are exempt from the requirements of Subsection (3):  
538 (a) a local government other post-employment benefits trust fund under Section 51-7-12.2; and  
540 (b) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign depository  
institution as defined in Section 7-1-103.
- 542 (5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time  
deposits issued in amounts of \$100,000 or more, the interest shall be calculated on the basis of the  
actual number of days divided by 360 days.
- 545 (6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured  
nonqualified depository only if a qualified depository is not reasonably convenient to the entity's  
geographic location.
- 548 (7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all  
purchases and sales of securities are settled within:
- 550 (a) 15 days of the trade date for outstanding issues; and  
551 (b) 30 days for new issues.

572 Section 7. **Effective date.**

This bill takes effect on May 7, 2025.

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