

Senator David H. Steele proposes to substitute the following bill:

STATE MONEY MANAGEMENT ACT

AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: David H. Steele

AN ACT RELATING TO THE STATE MONEY MANAGEMENT ACT; CLARIFYING REQUIREMENTS FOR CERTAIN INVESTMENTS AUTHORIZED BY THE ACT; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

51-7-17, as last amended by Chapter 133, Laws of Utah 1996

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

Section 1. Section **51-7-17** is amended to read:

51-7-17. Criteria for investments.

(1) As used in this section:

(a) "Affiliate" means, in relation to any provider:

(i) any entity controlled, directly or indirectly, by the provider;

(ii) any entity that controls, directly or indirectly, the provider; or

(iii) any entity directly or indirectly under common control with the provider.

(b) "Control" means ownership of a majority of the voting power of the entity or provider.

~~[(1)]~~ (2) (a) All public treasurers shall consider and meet the following objectives when depositing and investing public funds:

(i) safety of principal;

(ii) need for liquidity;

(iii) yield on investments;

26 (iv) recognition of the different investment objectives of operating and permanent funds;
27 and

28 (v) maturity of investments, so that the maturity date of the investment does not exceed
29 the anticipated date of the expenditure of funds.

30 (b) Each public treasurer shall invest the proceeds of general obligation bond issues, tax
31 anticipation note issues, and all funds pledged or otherwise dedicated to the payment of interest
32 and principal of general obligation bonds and tax anticipation notes issued by the state or any
33 political subdivision of the state in accordance with Section 51-7-11 or in accordance with the
34 terms of the borrowing instrument applicable to those issues and funds if those terms are more
35 restrictive than Section 51-7-11.

36 (c) Each public treasurer shall invest the proceeds of bonds other than general obligation
37 bonds and the proceeds of notes other than tax anticipation notes issued by the state or any political
38 subdivision of the state, and all funds pledged or otherwise dedicated to the payment of interest
39 and principal of those notes and bonds, in accordance with the terms of the borrowing instruments
40 applicable to those bonds or notes, or if none of those provisions are applicable, in accordance with
41 Section 51-7-11.

42 (d) Each public treasurer may invest proceeds of bonds, notes, or other moneys pledged or
43 otherwise dedicated to the payment of debt service on the bonds or notes in investment agreements
44 if:

45 (i) the investment is permitted by the terms of the borrowing instrument applicable to those
46 bonds or notes or the borrowing instrument authorizes the investment as an investment permitted
47 by the State Money Management Act;

48 (ii) either the provider of the investment agreement or an entity fully, unconditionally, and
49 irrevocably guaranteeing the provider's obligations under the investment agreement has received
50 a rating of:

51 (A) at least "AA-" from S&P or "Aa3" from Moody's for investment agreements having
52 a term of more than one year; or

53 (B) at least "A-1+" from S&P or "P-1" from Moody's for investment agreements having
54 a term of one year or less;

55 (iii) the investment agreement contains provisions approved by the public treasurer that
56 provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as

57 applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating
58 downgrade of a nonaffiliate guarantor by either S&P or Moody's below the "AA" category or its
59 equivalent, the provider must, within 30 days after receipt of notice of the downgrade, either:

60 (A) collateralize the investment agreement with direct obligations of or obligations
61 guaranteed by the United States of America having a market value at least equal to 105% of the
62 amount of the monies invested, valued at least quarterly, and deposit the collateral with a
63 third-party custodian or trustee selected by the public treasurer; or

64 (B) terminate the agreement without penalty and repay all of the principal invested and the
65 interest accrued on the investment to the date of termination; and

66 (iv) the public treasurer receives an enforceability opinion from the legal counsel of the
67 investment agreement provider and, if there is a guarantee, an enforceability opinion from the legal
68 counsel of the guarantor with respect to the guarantee.

69 [(2)] (3) (a) As used in this Subsection (3), "interest rate contract" means interest rate
70 exchange contracts, interest rate floor contracts, interest rate ceiling contracts, and other similar
71 contracts authorized by resolution of the governing board or issuing authority, as applicable.

72 (b) A public treasurer may:

73 (i) enter into interest rate contracts that the governing board or issuing authority determines
74 are necessary, convenient, or appropriate for the control or management of debt or for the cost of
75 servicing debt; and

76 (ii) use its public funds to satisfy its payment obligations under those contracts.

77 (c) Those contracts:

78 (i) shall comply with the requirements established by council rules; and

79 (ii) may contain payment, security, default, termination, remedy, and other terms and
80 conditions that the governing board or issuing authority considers appropriate.

81 (d) Neither interest rate contracts nor public funds used in connection with these interest
82 rate contracts may be considered a deposit or investment.

83 [(3)] (4) It is the intent of the Legislature that all public funds invested in deposit
84 instruments be invested with qualified depositories within Utah, except that if national market rates
85 on instruments of similar quality and term exceed those offered by qualified depositories,
86 investments in out-of-state deposit instruments may be made only with those institutions that meet
87 quality criteria set forth by the rules of the council.