

1 **STATE GOVERNMENT AND STATE FINANCE**

2 **AMENDMENTS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Glenn L. Way**

6 **This act modifies provisions relating to the State Money Management Act. The act modifies**
7 **the definition of a "qualified depository" to require that deposits be insured by the Federal**
8 **Deposit Insurance Corporation.**

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

10 AMENDS:

11 **51-7-3**, as last amended by Chapter 133, Laws of Utah 1996

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

13 Section 1. Section **51-7-3** is amended to read:

14 **51-7-3. Definitions.**

15 As used in this chapter:

16 (1) "Certified dealer" means:

17 (a) a primary reporting dealer recognized by the Federal Reserve Bank of New York who
18 is certified by the director as having met the applicable criteria of council rule; or

19 (b) a broker dealer who:

20 (i) has and maintains an office and a resident registered principal in the state;

21 (ii) meets the capital requirements established by council rules;

22 (iii) meets the requirements for good standing established by council rule; and

23 (iv) is certified by the director as meeting quality criteria established by council rule.

24 (2) "Commissioner" means the commissioner of financial institutions.

25 (3) "Council" means the State Money Management Council created by Section 51-7-16.

26 (4) "Director" means the director of the Division of Securities of the Department of
27 Commerce.



28 (5) "First tier commercial paper" means commercial paper rated by at least two nationally
29 recognized statistical rating organizations in the highest short-term rating category.

30 (6) "Funds functioning as endowments" means funds, regardless of source, whose corpus
31 is intended to be held in perpetuity by formal institutional designation according to the institution's
32 policy for designating those funds.

33 (7) "Hard put" means an unconditional sell-back provision or a redemption provision
34 applicable at issue to a note or bond, allowing holders to sell their holdings back to the issuer or
35 to an equal or higher-rated third party provider at specific intervals and specific prices determined
36 at the time of issuance.

37 (8) (a) "Investment agreement" means any written agreement that has specifically
38 negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate.

39 (b) "Investment agreement" includes any agreement to supply investments on one or more
40 future dates.

41 (9) "Market value" means market value as defined in the Master Repurchase Agreement.

42 (10) "Master Repurchase Agreement" means the current standard Master Repurchase
43 Agreement approved by the Public Securities Association or by any successor organization.

44 (11) "Maximum amount" means, with respect to qualified depositories, the total amount
45 of:

46 (a) deposits in excess of the federal deposit insurance limit; and

47 (b) nonqualifying repurchase agreements.

48 (12) "Money market mutual fund" means an open-end managed investment fund:

49 (a) that complies with the diversification, quality, and maturity requirements of Rule 2a-7
50 or any successor rule of the Securities and Exchange Commission applicable to money market
51 mutual funds; and

52 (b) that assesses no sales load on the purchase of shares and no contingent deferred sales
53 charge or other similar charges, however designated.

54 (13) "Nationally recognized statistical rating organization" means an organization that has
55 been designated as a nationally recognized statistical rating organization by the Securities and
56 Exchange Commission's Division of Market Regulation.

57 (14) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing
58 indebtedness of a qualified depository arising from the transfer of obligations of the United States

59 Treasury or other authorized investments to public treasurers that is:

- 60 (a) evidenced by a safekeeping receipt issued by the qualified depository;
61 (b) included in the depository's maximum amount of public funds; and
62 (c) valued and maintained at market value plus an appropriate margin collateral
63 requirement based upon the term of the agreement and the type of securities acquired.

64 (15) "Operating funds" means current balances and other funds that are to be disbursed for
65 operation of the state government or any of its boards, commissions, institutions, departments,
66 divisions, agencies, or other similar instrumentalities, or any county, city, school district, political
67 subdivision, or other public body.

68 (16) "Permanent funds" means funds whose principal may not be expended, the earnings
69 from which are to be used for purposes designated by law.

70 (17) "Permitted depository" means any out-of-state financial institution that meets quality
71 criteria established by rule of the council.

72 (18) "Public funds" means monies, funds, and accounts, regardless of the source from
73 which the monies, funds, and accounts are derived, that are owned, held, or administered by the
74 state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus,
75 laboratories, or other similar instrumentalities, or any county, city, school district, political
76 subdivision, or other public body.

77 (19) (a) "Public monies" means "public funds."

78 (b) "Public monies," as used in Article VII, Sec. 15, Utah Constitution, means the same
79 as "state funds."

80 (20) "Public treasurer" includes the state treasurer and the official of any state board,
81 commission, institution, department, division, agency, or other similar instrumentality, or of any
82 county, city, school district, political subdivision, or other public body who has the responsibility
83 for the safekeeping and investment of any public funds.

84 (21) "Qualified depository" means a Utah depository institution or an out-of-state
85 depository institution, as those terms are defined in Section 7-1-103 that is authorized to conduct
86 business in this state under Section 7-1-702 or Title 7, Chapter 19, Acquisition of Failing
87 Depository Institutions or Holding Companies, whose deposits are insured by ~~[an agency of the~~
88 ~~federal government]~~ the Federal Deposit Insurance Corporation, and that has been certified by the
89 commissioner of financial institutions as having met the requirements established under this

90 chapter and the rules of the council to be eligible to receive deposits of public funds.

91 (22) "Qualifying repurchase agreement" means a repurchase agreement evidencing
92 indebtedness of a financial institution or government securities dealer acting as principal arising
93 from the transfer of obligations of the United States Treasury or other authorized investments to
94 public treasurers only if purchased securities are:

95 (a) delivered to the public treasurer's safekeeping agent or custodian as contemplated by
96 Section 7 of the Master Repurchase Agreement; and

97 (b) valued and maintained at market value plus an appropriate margin collateral
98 requirement based upon the term of the agreement and the type of securities acquired.

99 (23) "State funds" means:

100 (a) public monies raised by operation of law for the support and operation of the state
101 government; and

102 (b) all other monies, funds, and accounts, regardless of the source from which the monies,
103 funds, or accounts are derived, that are owned, held, or administered by the state or any of its
104 boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other
105 similar instrumentalities.

Legislative Review Note
as of 2-6-01 2:47 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel