

PUBLIC FUNDS AND ACCOUNTS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill modifies the State Money Management Act and Title 53B, State System of Higher Education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows deposits of certain institutions of higher education public funds in a foreign depository institution for educational purposes if the:
 - laws of the foreign country require the money to be deposited in the foreign country; or
 - terms of a grant, gift, or contract require the funds to be deposited in the foreign country;
- ▶ exempts public funds that are reciprocal deposits from public treasurer criteria for qualified depositories, subject to rules made by the State Money Management Council; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2013.

Utah Code Sections Affected:

AMENDS:

- 30 **51-4-1**, as last amended by Laws of Utah 2004, Chapter 115
- 31 **51-7-3**, as last amended by Laws of Utah 2011, Chapter 342
- 32 **51-7-4**, as last amended by Laws of Utah 2011, Chapter 46
- 33 **51-7-7**, as last amended by Laws of Utah 1992, Chapter 285
- 34 **51-7-11**, as last amended by Laws of Utah 2011, Chapter 276
- 35 **51-7-15**, as last amended by Laws of Utah 1992, Chapter 285
- 36 **51-7-17**, as last amended by Laws of Utah 2000, Chapter 246
- 37 **51-7-18.2**, as last amended by Laws of Utah 1992, Chapter 285

38 ENACTS:

39 **53B-7-601**, Utah Code Annotated 1953



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

42 Section 1. Section **51-4-1** is amended to read:

43 **51-4-1. Deposits by state officers, boards, commissions, institutions, departments,**
44 **divisions, agencies, and similar instrumentalities.**

45 (1) As used in this section, "agency" means each officer, board, commission,
46 institution, department, division, agency, and other similar instrumentality of the state of Utah.

47 (2) [~~Unless an agency receives~~] Except as provided under Section 53B-7-601, or
48 through the receipt of a written variance from the state treasurer, each agency shall deposit
49 daily, if practicable, but no later than once every three banking days, all collections of state
50 money and other public funds with:

51 (a) the state treasurer; or

52 (b) a qualified depository for the credit of the state.

53 (3) The state treasurer may make policies governing the reporting and remitting [~~to~~
54 ~~him~~] of these funds.

55 Section 2. Section **51-7-3** is amended to read:

56 **51-7-3. Definitions.**

57 As used in this chapter:

- 58 (1) "Agent" means "agent" as defined in Section 61-1-13.
- 59 (2) "Certified dealer" means:
 - 60 (a) a primary reporting dealer recognized by the Federal Reserve Bank of New York
 - 61 who is certified by the director as having met the applicable criteria of council rule; or
 - 62 (b) a broker dealer who:
 - 63 (i) has and maintains an office and a resident registered principal in the state;
 - 64 (ii) meets the capital requirements established by council rules;
 - 65 (iii) meets the requirements for good standing established by council rule; and
 - 66 (iv) is certified by the director as meeting quality criteria established by council rule.
- 67 (3) "Certified investment adviser" means a federal covered adviser, as defined in
- 68 Section 61-1-13, or an investment adviser, as defined in Section 61-1-13, who is certified by
- 69 the director as having met the applicable criteria of council rule.
- 70 (4) "Commissioner" means the commissioner of financial institutions.
- 71 (5) "Council" means the State Money Management Council created by Section
- 72 51-7-16.
- 73 (6) "Director" means the director of the Utah State Division of Securities of the
- 74 Department of Commerce.
- 75 (7) (a) "Endowment funds" means gifts, devises, or bequests of property of any kind
- 76 donated to a higher education institution from any source.
- 77 (b) "Endowment funds" does not mean money used for the general operation of a
- 78 higher education institution that is received by the higher education institution from:
 - 79 (i) state appropriations;
 - 80 (ii) federal contracts;
 - 81 (iii) federal grants;
 - 82 (iv) private research grants; and
 - 83 (v) tuition and fees collected from students.
- 84 (8) "First tier commercial paper" means commercial paper rated by at least two
- 85 nationally recognized statistical rating organizations in the highest short-term rating category.

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

89 (10) "GASB" or "Governmental Accounting Standards Board" means the
90 Governmental Accounting Standards Board that is responsible for accounting standards used
91 by public entities.

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

96 (12) "Higher education institution" means the institutions specified in Section
97 53B-1-102.

98 (13) "Investment adviser representative" means "investment adviser representative" as
99 defined in Section 61-1-13.

100 (14) (a) "Investment agreement" means any written agreement that has specifically
101 negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate.

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

104 (15) "Local government" means a county, municipality, school district, local district
105 under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service
106 district under Title 17D, Chapter 1, Special Service District Act, or any other political
107 subdivision of the state.

108 (16) "Market value" means market value as defined in the Master Repurchase
109 Agreement.

110 (17) "Master Repurchase Agreement" means the current standard Master Repurchase
111 Agreement approved by the Public Securities Association or by any successor organization.

112 (18) "Maximum amount" means, with respect to qualified depositories, the total
113 amount of:

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

115 (b) nonqualifying repurchase agreements.

116 (19) "Money market mutual fund" means an open-end managed investment fund:

117 (a) that complies with the diversification, quality, and maturity requirements of Rule
118 2a-7 or any successor rule of the Securities and Exchange Commission applicable to money
119 market mutual funds; and

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

122 (20) "Nationally recognized statistical rating organization" means an organization that
123 has been designated as a nationally recognized statistical rating organization by the Securities
124 and Exchange Commission's Division of Market Regulation.

125 (21) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing
126 indebtedness of a qualified depository arising from the transfer of obligations of the United
127 States Treasury or other authorized investments to public treasurers that is:

128 (a) evidenced by a safekeeping receipt issued by the qualified depository;

129 (b) included in the depository's maximum amount of public funds; and

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

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

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

138 (24) "Permitted depository" means any out-of-state financial institution that meets
139 quality criteria established by rule of the council.

140 (25) "Public funds" means money, funds, and accounts, regardless of the source from
141 which the money, funds, and accounts are derived, that are owned, held, or administered by the

142 state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus,
143 laboratories, or other similar instrumentalities, or any county, city, school district, political
144 subdivision, or other public body.

145 (26) (a) "Public money" means "public funds."

146 (b) "Public money," as used in Article VII, Sec. 15, Utah Constitution, means the same
147 as "state funds."

148 (27) "Public treasurer" includes the state treasurer and the official of any state board,
149 commission, institution, department, division, agency, or other similar instrumentality, or of
150 any county, city, school district, political subdivision, or other public body who has the
151 responsibility for the safekeeping and investment of any public funds.

152 (28) "Qualified depository" means a Utah depository institution or an out-of-state
153 depository institution, as those terms are defined in Section 7-1-103 that is authorized to
154 conduct business in this state under Section 7-1-702 or Title 7, Chapter 19, Acquisition of
155 Failing Depository Institutions or Holding Companies, whose deposits are insured by an
156 agency of the federal government and that has been certified by the commissioner of financial
157 institutions as having met the requirements established under this chapter and the rules of the
158 council to be eligible to receive deposits of public funds.

159 (29) "Qualifying repurchase agreement" means a repurchase agreement evidencing
160 indebtedness of a financial institution or government securities dealer acting as principal
161 arising from the transfer of obligations of the United States Treasury or other authorized
162 investments to public treasurers only if purchased securities are:

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

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

167 (30) "Reciprocal deposits" means deposits that are initially deposited into a qualified
168 depository and are then redeposited through a deposit account registry service:

169 (a) in one or more FDIC-insured depository institutions in amounts up to the relevant

170 FDIC-insured deposit limit for a depositor in each depository institution; and

171 (b) in exchange for reciprocal FDIC-insured deposits made through the deposit account
172 registry service to the qualified depository.

173 [~~30~~] (31) "Securities division" means Utah's Division of Securities created within the
174 Department of Commerce by Section 13-1-2.

175 [~~31~~] (32) "State funds" means:

176 (a) public money raised by operation of law for the support and operation of the state
177 government; and

178 (b) all other money, funds, and accounts, regardless of the source from which the
179 money, funds, or accounts are derived, that are owned, held, or administered by the state or any
180 of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories,
181 or other similar instrumentalities.

182 Section 3. Section **51-7-4** is amended to read:

183 **51-7-4. Transfer of functions, powers, and duties relating to public funds to state**
184 **treasurer -- Exceptions -- Deposit of income from investment of state money.**

185 (1) Unless otherwise required by the Utah Constitution or applicable federal law, the
186 functions, powers, and duties vested by law in each [~~and every~~] state officer, board,
187 commission, institution, department, division, agency, [~~and~~] or other similar [~~instrumentalities~~]
188 instrumentality relating to the deposit, investment, or reinvestment of public funds, and the
189 purchase, sale, or exchange of [~~any~~] investments or securities of, or for [~~any~~], funds or accounts
190 under the control and management of each of these instrumentalities, are transferred to and
191 shall be exercised by the state treasurer, except:

192 (a) funds assigned to the Utah State Retirement Board for investment under Section
193 49-11-302;

194 (b) funds of member institutions of the state system of higher education:

195 (i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

196 (ii) derived from student fees or from income from operations of auxiliary enterprises,
197 which fees and income are pledged or otherwise dedicated to the payment of interest and

198 principal of bonds issued by ~~[such institutions]~~ an institution of higher education; ~~[and]~~

199 (iii) subject to rules made by the council, under Section 51-7-18, deposited in a foreign
200 depository institution as defined in Section 7-1-103; and

201 ~~[(iii) any]~~ (iv) other funds [which] that are not included in the institution's work
202 program as approved by the State Board of Regents;

203 (c) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work
204 Programs for Prisoners;

205 (d) trust funds established by judicial order;

206 (e) funds of the Workers' Compensation Fund;

207 (f) funds of the Utah Housing Corporation;

208 (g) endowment funds of higher education institutions; and

209 (h) the funds of the Utah Educational Savings Plan.

210 (2) All public funds held or administered by the state or ~~[any of]~~ its boards,
211 commissions, institutions, departments, divisions, agencies, or similar instrumentalities and not
212 transferred to the state treasurer as provided by this section shall be:

213 (a) deposited and invested by the custodian in accordance with this chapter, unless
214 otherwise required by statute or by applicable federal law; and

215 (b) reported to the state treasurer in a form prescribed by the state treasurer.

216 (3) Unless otherwise provided by the constitution or laws of this state or by contractual
217 obligation, the income derived from the investment of state money by the state treasurer shall
218 be deposited in and become part of the General Fund.

219 Section 4. Section **51-7-7** is amended to read:

220 **51-7-7. Securities and evidence of deposits and investments -- Custody -- Deposit**
221 **for safekeeping.**

222 (1) (a) (i) The public treasurer shall have custody of all securities purchased or held and
223 all evidence of deposits and investments of public funds.

224 (ii) All securities shall be delivered versus payment to the public treasurer or to the
225 treasurer's safekeeping bank.

226 (b) The public treasurer may deposit any of these securities with a bank or trust
227 company to be held in safekeeping by that custodian.

228 (c) The provisions of this section do not apply to securities acquired under a
229 nonqualifying repurchase agreement as defined in Section 51-7-3.

230 (d) The provisions of this section apply to any book-entry-only deposit or security the
231 ownership records of which are maintained with a securities depository, in the Federal Book
232 Entry system authorized by the U.S. Department of Treasury, or in the book-entry records of
233 the issuer, as follows:

234 (i) the direct ownership of the deposit or security by the public treasurer shall be
235 reflected in the book-entry records and represented by a receipt, confirmation, or statement
236 issued to the public treasurer by the custodian of the book-entry system; or

237 (ii) the ownership of the deposit or security by the public treasurer's custodial bank or
238 trust company shall be reflected in the book-entry records and the public treasurer's ownership
239 shall be represented by a receipt, confirmation, or statement issued by the custodial bank or
240 trust company.

241 (2) The public treasurer may maintain accounts with money center banks only for the
242 purposes of settling investment transactions, safekeeping, and collecting those investments.

243 Section 5. Section **51-7-11** is amended to read:

244 **51-7-11. Authorized deposits or investments of public funds.**

245 (1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and (1)(c), a public
246 treasurer [~~may~~] shall conduct investment transactions [~~only~~] through qualified depositories,
247 certified dealers, or directly with issuers of the investment securities.

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

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

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

254 (3) Except as provided in Subsection (4), all public funds [~~may~~] shall be deposited or
255 invested [~~only~~] in the following assets that meet the criteria of Section 51-7-17:

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

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

259 (i) Government National Mortgage Association mortgage pools;

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

261 (iii) Federal National Mortgage Corporation mortgage pools;

262 (iv) Small Business Administration loan pools;

263 (v) Federal Agriculture Mortgage Corporation pools; or

264 (vi) other investments authorized by this section;

265 (c) qualifying repurchase agreements and reverse repurchase agreements with certified
266 dealers, permitted depositories, or qualified depositories using collateral consisting of:

267 (i) Government National Mortgage Association mortgage pools;

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

269 (iii) Federal National Mortgage Corporation mortgage pools;

270 (iv) Small Business Administration loan pools; or

271 (v) other investments authorized by this section;

272 (d) commercial paper that is classified as "first tier" by two nationally recognized
273 statistical rating organizations, one of which [~~must~~] shall be Moody's Investors Service or
274 Standard and Poor's, which has a remaining term to maturity of:

275 (i) 270 days or less for paper issued under 15 U.S.C. Sec. 77c(a)(3); or

276 (ii) 365 days or less for paper issued under 15 U.S.C. Sec. 77d(2);

277 (e) bankers' acceptances that:

278 (i) are eligible for discount at a Federal Reserve bank; and

279 (ii) have a remaining term to maturity of 270 days or less;

280 (f) fixed rate negotiable deposits issued by a permitted depository that have a
281 remaining term to maturity of 365 days or less;

282 (g) obligations of the United States Treasury, including United States Treasury bills,
283 United States Treasury notes, and United States Treasury bonds;

284 (h) obligations other than mortgage pools and other mortgage derivative products
285 issued by, or fully guaranteed as to principal and interest by, the following agencies or
286 instrumentalities of the United States in which a market is made by a primary reporting
287 government securities dealer, unless the agency or instrumentality has become private and is no
288 longer considered to be a government entity:

- 289 (i) Federal Farm Credit banks;
- 290 (ii) Federal Home Loan banks;
- 291 (iii) Federal National Mortgage Association;
- 292 (iv) Federal Home Loan Mortgage Corporation;
- 293 (v) Federal Agriculture Mortgage Corporation; and
- 294 (vi) Tennessee Valley Authority;

295 (i) fixed rate corporate obligations that:

296 (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally
297 recognized statistical rating organizations, one of which [~~must~~] shall be [~~by~~] Moody's Investors
298 Service or Standard and Poor's;

299 (ii) are senior unsecured obligations of the issuer;

300 (iii) are publicly traded; and

301 (iv) have a remaining term to final maturity of 13 months or less or [~~is~~] are subject to a
302 hard put at par value or better, within 365 days;

303 (j) tax anticipation notes and general obligation bonds of the state or [~~of any~~] a county,
304 incorporated city or town, school district, or other political subdivision of [~~this~~] the state,
305 including bonds offered on a when-issued basis without regard to the limitation in Subsection
306 (7);

307 (k) bonds, notes, or other evidence of indebtedness of [~~any~~] a county, incorporated city
308 or town, school district, or other political subdivision of the state that are payable from
309 assessments or from revenues or earnings specifically pledged for payment of the principal and

310 interest on these obligations, including bonds offered on a when-issued basis without regard to
311 the limitation in Subsection (7);

312 (l) shares or certificates in a money market mutual fund as defined in Section 51-7-3;

313 (m) variable rate negotiable deposits that:

314 (i) are issued by a qualified depository or a permitted depository;

315 (ii) are repriced at least semiannually; and

316 (iii) have a remaining term to final maturity not to exceed two years; [~~and~~]

317 (n) variable rate securities that:

318 (i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally
319 recognized statistical rating organizations, one of which [~~must~~] shall be [~~by~~] Moody's Investors
320 Service or Standard and Poor's;

321 (B) are senior unsecured obligations of the issuer;

322 (C) are publicly traded;

323 (D) are repriced at least semiannually; and

324 (E) have a remaining term to final maturity not to exceed two years or are subject to a
325 hard put at par value or better, within 365 days; [~~and~~]

326 (ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or
327 [~~any~~] a security making unscheduled periodic principal payments other than optional
328 redemptions[-]; and

329 (o) reciprocal deposits made in accordance with Subsection 51-7-17(4).

330 (4) The following public funds are exempt from the requirements of Subsection (3):

331 (a) the Employers' Reinsurance Fund created in Section 34A-2-702;

332 (b) the Uninsured Employers' Fund created in Section 34A-2-704; [~~and~~]

333 (c) a local government other post-employment benefits trust fund under Section
334 51-7-12.2[-]; and

335 (d) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign
336 depository institution as defined in Section 7-1-103.

337 (5) If any of the deposits authorized by Subsection (3)(a) are negotiable or

338 nonnegotiable large-time deposits issued in amounts of \$100,000 or more, the interest shall be
339 calculated on the basis of the actual number of days divided by 360 days.

340 (6) A public treasurer may maintain fully insured deposits in demand accounts in a
341 federally insured nonqualified depository only if a qualified depository is not reasonably
342 convenient to the entity's geographic location.

343 (7) The public treasurer shall ensure that all purchases and sales of securities are settled
344 within:

345 (a) 15 days of the trade date for outstanding issues; and

346 (b) 30 days ~~on~~ for new issues.

347 Section 6. Section **51-7-15** is amended to read:

348 **51-7-15. Bonds of state treasurer and other public treasurers -- Reports to**
349 **council.**

350 (1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of
351 each school district, and ~~any~~ other public treasurers that the council designates by rule shall
352 be bonded in an amount of not less than that established by the council.

353 (b) The council shall base the minimum bond amount on the amount of public funds
354 normally in the treasurer's possession or control.

355 (2) (a) When a public treasurer deposits or invests public funds as authorized by this
356 chapter, ~~he and his~~ the public treasurer and the public treasurer's bondsmen are not liable for
357 any loss of public funds invested or deposited unless the loss is caused by the malfeasance of
358 the public treasurer or ~~of any~~ a member of ~~his~~ the public treasurer's staff.

359 (b) A public treasurer and ~~his~~ the public treasurer's bondsmen are liable for ~~any~~ a
360 loss for any reason from deposits or investments not made in conformity with this chapter and
361 the rules of the council.

362 (3) (a) ~~Each~~ A public treasurer shall file a written report with the council on or before
363 January 31 and July 31 of each year.

364 (b) The report shall contain:

365 (i) the information about the deposits and investments of that public treasurer during

366 the preceding six months ending December 31 and June 30, respectively, that the council
367 requires by rule; and

368 (ii) information detailing the nature and extent of interest rate contracts permitted by
369 Subsection 51-7-17~~(2)~~(3).

370 (c) ~~The~~ A public treasurer shall make copies of the report available to the public at
371 ~~his offices~~ the public treasurer's office during normal business hours.

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

373 **51-7-17. Criteria for investments.**

374 (1) As used in this section:

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

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

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

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

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

381 (2) (a) ~~At~~ A public ~~treasurers~~ treasurer shall consider and meet the following
382 objectives when depositing and investing public funds:

383 (i) safety of principal;

384 (ii) need for liquidity;

385 (iii) yield on investments;

386 (iv) recognition of the different investment objectives of operating and permanent
387 funds; and

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

390 (b) ~~Each~~ A public treasurer shall invest the proceeds of general obligation bond
391 issues, tax anticipation note issues, and ~~all~~ funds pledged or otherwise dedicated to the
392 payment of interest and principal of general obligation bonds and tax anticipation notes issued
393 by the state or ~~any~~ a political subdivision of the state in accordance with;

394 (i) Section 51-7-11; or ~~[in accordance with]~~
395 (ii) the terms of the borrowing instrument applicable to those issues and funds, if those
396 terms are more restrictive than Section 51-7-11.

397 (c) ~~[Each]~~ A public treasurer shall invest the proceeds of bonds other than general
398 obligation bonds and the proceeds of notes other than tax anticipation notes issued by the state
399 or ~~[any]~~ a political subdivision of the state, and all funds pledged or otherwise dedicated to the
400 payment of interest and principal of those notes and bonds~~[-]~~;

401 (i) in accordance with the terms of the borrowing instruments applicable to those bonds
402 or notes~~[-]~~; or

403 (ii) if none of those provisions are applicable, in accordance with Section 51-7-11.

404 (d) ~~[Each]~~ A public treasurer may invest proceeds of bonds, notes, or other money
405 pledged or otherwise dedicated to the payment of debt service on the bonds or notes in
406 investment agreements if:

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

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

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

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

417 (iii) the investment agreement contains provisions approved by the public treasurer that
418 provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as
419 applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating
420 downgrade of a nonaffiliate guarantor by either S&P or Moody's below the "AA" category or
421 its equivalent, the provider must, within 30 days after receipt of notice of the downgrade~~[-]~~;

422 either]:

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

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

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

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

436 (b) A public treasurer may:

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

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

441 (c) Those contracts:

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

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

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

447 (4) ~~[It is the intent of the Legislature]~~ A public treasurer shall ensure that all public
448 funds invested in deposit instruments ~~[be]~~ are invested with qualified depositories within Utah,
449 except ~~[that]~~:

450 (a) for deposits made in accordance with Section 53B-7-601 in a foreign depository
451 institution as defined in Section 7-1-103;

452 (b) reciprocal deposits, subject to rules made by the council under Subsection
453 51-7-18(2); or

454 (c) if national market rates on instruments of similar quality and term exceed those
455 offered by qualified depositories, investments in out-of-state deposit instruments may be made
456 only with ~~those~~ institutions that meet quality criteria set forth by the rules of the council.

457 Section 8. Section **51-7-18.2** is amended to read:

458 **51-7-18.2. Public treasurer's reports -- Contents.**

459 (1) The council may:

460 (a) require ~~[any]~~ a public treasurer to prepare and file ~~[with it]~~ a written report in a
461 form prescribed by the council containing the information required by this section; and

462 (b) specify that the report will contain the information required by this section for any
463 date.

464 (2) The council shall require the report to include information:

465 (a) specifying the amount of public funds in the public treasurer's possession or
466 control;

467 (b) detailing the nature and extent of the deposit and investment of those funds;

468 (c) detailing the rate of return on each deposit or investment; and

469 (d) detailing the nature and extent of interest rate contracts authorized by Subsection
470 ~~51-7-17(2)~~(3).

471 (3) The public treasurer shall file the report with the council within 10 days after ~~[the]~~
472 the day on which the public treasurer receives the council's request.

473 (4) ~~[Each]~~ A public treasurer shall make copies of ~~[any reports]~~ a report required by
474 this section available for inspection by the public at ~~[his]~~ the public treasurer's office during
475 normal business hours.

476 Section 9. Section **53B-7-601** is enacted to read:

477 **Part 6. Foreign Bank Accounts for Higher Education Purposes**

478 **53B-7-601. Foreign bank accounts for higher education purposes.**

479 (1) As used in this section, "foreign depository institution" is as defined in Section
480 7-1-103.

481 (2) In accordance with Subsection 51-7-4(1)(b)(iii), a higher education institution may
482 deposit funds in a foreign depository institution for purposes of conducting academic, research,
483 or clinical activities in the foreign country, if the:

484 (a) laws of the foreign country require the money to be deposited in the foreign
485 country; or

486 (b) terms of a grant, gift, or contract require the funds to be deposited in the foreign
487 country.

488 (3) The foreign depository institution in which funds are deposited under this section
489 shall meet the requirements of rules made by the State Money Management Council under
490 Section 51-7-18.

491 Section 10. **Effective date.**

492 This bill takes effect on July 1, 2013.