

1 **PERMANENT STATE TRUST FUND INVESTMENT**

2 **AMENDMENTS**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jim Nielson**

6 Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

8 **General Description:**

9 This bill addresses the investment of money in the permanent state trust fund.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ repeals a provision relating to the state treasurer's investment of money in the  
13 permanent state trust fund and replaces it with other provisions governing the  
14 investment of permanent state trust fund money;

15 ▶ provides for requirements and criteria for the state treasurer's investment of  
16 permanent state trust fund money;

17 ▶ requires the state treasurer to invest the money as a prudent investor would and  
18 establishes criteria for determining whether the treasurer has met that prudent  
19 investor standard; and

20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:  
27



28 51-9-202, as last amended by Laws of Utah 2011, Chapter 119

29 ENACTS:

30 51-7b-101, Utah Code Annotated 1953

31 51-7b-102, Utah Code Annotated 1953

32 51-7b-201, Utah Code Annotated 1953

33 51-7b-202, Utah Code Annotated 1953

34 REPEALS:

35 51-7-12.1, as enacted by Laws of Utah 2000, Chapter 351



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

38 Section 1. Section 51-7b-101 is enacted to read:

39 **CHAPTER 7b. INVESTMENT OF PERMANENT STATE TRUST FUND MONEY**

40 **Part 1. General Provisions**

41 **51-7b-101. Title.**

42 This chapter is known as "Investment of Permanent State Trust Fund Money."

43 Section 2. Section 51-7b-102 is enacted to read:

44 **51-7b-102. Definition.**

45 As used in this chapter, "permanent state trust fund" means the permanent state trust  
46 fund created by and operated under Utah Constitution Article XXII, Section 4.

47 Section 3. Section 51-7b-201 is enacted to read:

48 **Part 2. State Treasurer Investment Duties**

49 **51-7b-201. Investment of money in the permanent state trust fund.**

50 (1) The state treasurer shall:

51 (a) invest money in the permanent state trust fund with the primary goal of providing  
52 for the stability, income, and growth of the permanent state trust fund's principal;

53 (b) in making investment decisions, consider:

54 (i) general economic conditions;

55 (ii) the possible effect of inflation and deflation;

56 (iii) the role that each investment or course of action plays within the overall  
57 permanent state trust fund portfolio;

58 (iv) the expected total return from income and the appreciation of capital; and

59 (v) needs for liquidity, regularity of income, and preservation or appreciation of capital;  
60 and

61 (c) diversify the investments of the permanent state trust fund, unless the state treasurer  
62 reasonably determines that the purposes of the permanent state trust fund are better served  
63 without diversifying.

64 (2) Nothing in this section requires a specific outcome in investing.

65 (3) The state treasurer may deduct any administrative costs incurred in managing  
66 permanent state trust fund assets from earnings before distributing them.

67 (4) (a) The state treasurer may employ professional asset managers to assist in the  
68 investment of assets of the permanent state trust fund.

69 (b) The treasurer may provide compensation to asset managers only from earnings  
70 generated by the permanent state trust fund's investments.

71 Section 4. Section **51-7b-202** is enacted to read:

72 **51-7b-202. Prudent investor standard -- Determining whether standard met.**

73 (1) The state treasurer shall invest and manage the permanent state trust fund assets as  
74 a prudent investor would, by:

75 (a) considering the purposes, terms, distribution requirements, and other circumstances  
76 of the permanent state trust fund; and

77 (b) exercising reasonable care, skill, and caution in order to meet the standard of care  
78 of a prudent investor.

79 (2) In determining whether the state treasurer has met the standard of care of a prudent  
80 investor, a finder of fact shall:

81 (a) consider the state treasurer's investment decision or action in light of the facts and  
82 circumstances existing at the time of the decision or action, and not by hindsight; and

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

85 (i) not in isolation, but in the context of the permanent state trust fund portfolio as a  
86 whole; and

87 (ii) as a part of an overall investment strategy that has risk and return objectives  
88 reasonably suited to the permanent state trust fund.

89 Section 5. Section **51-9-202** is amended to read:

90           **51-9-202. Permanent state trust fund.**

91           (1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that  
92 are related to the settlement agreement that the state entered into with leading tobacco  
93 manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund  
94 created by and operated under Utah Constitution Article XXII, Section 4.

95           (2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind  
96 received by the state that are related to the settlement agreement that the state entered into with  
97 leading tobacco manufacturers shall be deposited into the permanent state trust fund created by  
98 and operated under Utah Constitution Article XXII, Section 4.

99           (3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind  
100 received by the state that are related to the settlement agreement that the state entered into with  
101 leading tobacco manufacturers shall be deposited into the General Fund Budget Reserve  
102 Account created in Section 63J-1-312.

103           (4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind  
104 received by the state that are related to the settlement agreement that the state entered into with  
105 leading tobacco manufacturers shall be deposited into the permanent state trust fund created by  
106 and operated under Utah Constitution Article XXII, Section 4.

107           (5) On and after July 1, 2007, 40% of all funds of every kind that are received by the  
108 state that are related to the settlement agreement that the state entered into with leading tobacco  
109 manufacturers on November 23, 1998, shall be deposited into the General Fund and the  
110 remaining funds deposited as directed.

111           (6) Funds in the permanent state trust fund shall be deposited or invested pursuant to  
112 [~~Section 51-7-12.1~~] Chapter 7b, Investment of Permanent State Trust Fund Money.

113           (7) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and  
114 dividends earned annually from the permanent state trust fund shall be deposited in the General  
115 Fund. There shall be transferred on an ongoing basis from the General Fund to the permanent  
116 state trust fund created under Utah Constitution Article XXII, Section 4, an amount equal to  
117 50% of the interest and dividends earned annually from the permanent state trust fund. The  
118 amount transferred into the fund under this Subsection (7)(a) shall be treated as principal.

119           (b) Any annual interest or dividends earned from the permanent state trust fund that  
120 remain in the General Fund after Subsection (7)(a) may be appropriated by the Legislature.

121 (c) Any realized or unrealized gains or losses on investments in the permanent state  
122 trust fund shall remain in the permanent state trust fund.

123 (8) This section does not apply to funds deposited under Chapter 9, Part 3,  
124 Infrastructure and Economic Diversification Investment Account and Deposit of Certain  
125 Severance Taxes into Permanent State Trust Fund Act, into the permanent state trust fund.

126 Section 6. **Repealer.**

127 This bill repeals:

128 Section **51-7-12.1, Deposit or investment of Tobacco Settlement Endowment --**

129 **Authorized deposits and investments -- Asset manager.**

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Legislative Review Note  
as of 1-25-13 1:06 PM

Office of Legislative Research and General Counsel