

**SPECIE LEGAL TENDER AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Fred C. Cox**

Senate Sponsor: Scott K. Jenkins

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**LONG TITLE**

**General Description:**

This bill modifies the State Money Management Act by amending provisions relating to specie legal tender.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ authorizes a public treasurer to invest public funds in specie legal tender;
- ▶ grants the State Money Management Council rulemaking authority to make rules

governing quality criteria for a commercial specie repository ~~H~~→ in consultation with the

Department of Financial Institutions ←~~H~~ ; and

- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**51-7-3**, as last amended by Laws of Utah 2013, Chapters 204 and 388

**51-7-11**, as last amended by Laws of Utah 2015, Chapter 171

**51-7-17**, as last amended by Laws of Utah 2015, Chapter 164

**51-7-18**, as last amended by Laws of Utah 2004, Chapter 248



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

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

31 **51-7-3. Definitions.**

32 As used in this chapter:

33 (1) "Agent" means "agent" as defined in Section 61-1-13.

34 (2) "Certified dealer" means:

35 (a) a primary reporting dealer recognized by the Federal Reserve Bank of New York

36 who is certified by the director as having met the applicable criteria of council rule; or

37 (b) a broker dealer who:

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

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

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

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

42 (3) "Certified investment adviser" means a federal covered adviser, as defined in

43 Section 61-1-13, or an investment adviser, as defined in Section 61-1-13, who is certified by

44 the director as having met the applicable criteria of council rule.

45 (4) "Commercial specie repository" means an institution that holds or receives deposits

46 of specie legal tender that is located within the state.

47 [~~4~~] (5) "Commissioner" means the commissioner of financial institutions.

48 [~~5~~] (6) "Council" means the State Money Management Council created by Section

49 51-7-16.

50 [~~6~~] (7) "Covered bond" means a publicly placed debt security issued by a bank, other

51 regulated financial institution, or a subsidiary of either that is secured by a pool of loans that

52 remain on the balance sheet of the issuer or its subsidiary.

53 [~~7~~] (8) "Director" means the director of the Utah State Division of Securities of the

54 Department of Commerce.

55 [~~8~~] (9) (a) "Endowment funds" means gifts, devises, or bequests of property of any

56 kind donated to a higher education institution from any source.

57 (b) "Endowment funds" does not mean money used for the general operation of a

58 higher education institution that is received by the higher education institution from:

59 (i) state appropriations;

60 (ii) federal contracts;

61 (iii) federal grants;

62 (iv) private research grants; and

63 (v) tuition and fees collected from students.

64 ~~[(9)]~~ (10) "First tier commercial paper" means commercial paper rated by at least two  
65 nationally recognized statistical rating organizations in the highest short-term rating category.

66 ~~[(10)]~~ (11) "Funds functioning as endowments" means funds, regardless of source,  
67 whose corpus is intended to be held in perpetuity by formal institutional designation according  
68 to the institution's policy for designating those funds.

69 ~~[(11)]~~ (12) "GASB" or "Governmental Accounting Standards Board" means the  
70 Governmental Accounting Standards Board that is responsible for accounting standards used  
71 by public entities.

72 ~~[(12)]~~ (13) "Hard put" means an unconditional sell-back provision or a redemption  
73 provision applicable at issue to a note or bond, allowing holders to sell their holdings back to  
74 the issuer or to an equal or higher-rated third party provider at specific intervals and specific  
75 prices determined at the time of issuance.

76 ~~[(13)]~~ (14) "Higher education institution" means the institutions specified in Section  
77 [53B-1-102](#).

78 ~~[(14)]~~ (15) "Investment adviser representative" ~~[is as]~~ means the same as that term is  
79 defined in Section [61-1-13](#).

80 ~~[(15)]~~ (16) (a) "Investment agreement" means any written agreement that has  
81 specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated  
82 interest rate.

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

85 ~~[(16)]~~ (17) "Local government" means a county, municipality, school district, local  
86 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special  
87 service district under Title 17D, Chapter 1, Special Service District Act, or any other political  
88 subdivision of the state.

89 ~~[(17)]~~ (18) "Market value" means market value as defined in the Master Repurchase

90 Agreement.

91 [~~(18)~~] (19) "Master Repurchase Agreement" means the current standard Master  
92 Repurchase Agreement approved by the Public Securities Association or by any successor  
93 organization.

94 [~~(19)~~] (20) "Maximum amount" means, with respect to qualified depositories, the total  
95 amount of:

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

97 (b) nonqualifying repurchase agreements.

98 [~~(20)~~] (21) "Money market mutual fund" means an open-end managed investment  
99 fund:

100 (a) that complies with the diversification, quality, and maturity requirements of Rule  
101 2a-7 or any successor rule of the Securities and Exchange Commission applicable to money  
102 market mutual funds; and

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

105 [~~(21)~~] (22) "Nationally recognized statistical rating organization" means an  
106 organization that has been designated as a nationally recognized statistical rating organization  
107 by the Securities and Exchange Commission's Division of Market Regulation.

108 [~~(22)~~] (23) "Nonqualifying repurchase agreement" means a repurchase agreement  
109 evidencing indebtedness of a qualified depository arising from the transfer of obligations of the  
110 United States Treasury or other authorized investments to public treasurers that is:

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

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

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

115 [~~(23)~~] (24) "Operating funds" means current balances and other funds that are to be  
116 disbursed for operation of the state government or any of its boards, commissions, institutions,  
117 departments, divisions, agencies, or other similar instrumentalities, or any county, city, school  
118 district, political subdivision, or other public body.

119 [~~(24)~~] (25) "Permanent funds" means funds whose principal may not be expended, the  
120 earnings from which are to be used for purposes designated by law.

121           ~~[(25)]~~ (26) "Permitted depository" means any out-of-state financial institution that  
122 meets quality criteria established by rule of the council.

123           ~~[(26)]~~ (27) "Public funds" means money, funds, and accounts, regardless of the source  
124 from which the money, funds, and accounts are derived, that are owned, held, or administered  
125 by the state or any of its boards, commissions, institutions, departments, divisions, agencies,  
126 bureaus, laboratories, or other similar instrumentalities, or any county, city, school district,  
127 political subdivision, or other public body.

128           ~~[(27)]~~ (28) (a) "Public money" means "public funds."

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

131           ~~[(28)]~~ (29) "Public treasurer" includes the state treasurer and the official of any state  
132 board, commission, institution, department, division, agency, or other similar instrumentality,  
133 or of any county, city, school district, political subdivision, or other public body who has the  
134 responsibility for the safekeeping and investment of any public funds.

135           ~~[(29)]~~ (30) "Qualified depository" means a Utah depository institution or an  
136 out-of-state depository institution, as those terms are defined in Section [7-1-103](#), that is  
137 authorized to conduct business in this state under Section [7-1-702](#) or Title 7, Chapter 19,  
138 Acquisition of Failing Depository Institutions or Holding Companies, whose deposits are  
139 insured by an agency of the federal government and that has been certified by the commissioner  
140 of financial institutions as having met the requirements established under this chapter and the  
141 rules of the council to be eligible to receive deposits of public funds.

142           ~~[(30)]~~ (31) "Qualifying repurchase agreement" means a repurchase agreement  
143 evidencing indebtedness of a financial institution or government securities dealer acting as  
144 principal arising from the transfer of obligations of the United States Treasury or other  
145 authorized investments to public treasurers only if purchased securities are:

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

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

150           ~~[(31)]~~ (32) "Reciprocal deposits" means deposits that are initially deposited into a  
151 qualified depository and are then redeposited through a deposit account registry service:

152 (a) in one or more FDIC-insured depository institutions in amounts up to the relevant  
153 FDIC-insured deposit limit for a depositor in each depository institution; and

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

156 [~~32~~] (33) "Securities division" means Utah's Division of Securities created within the  
157 Department of Commerce by Section 13-1-2.

158 (34) "Specie legal tender" means the same as that term is defined in Section  
159 59-1-1501.1.

160 [~~33~~] (35) "State funds" means:

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

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

167 Section 2. Section 51-7-11 is amended to read:

168 **51-7-11. Authorized deposits or investments of public funds.**

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

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

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

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

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

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

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

- 183 (i) Government National Mortgage Association mortgage pools;
- 184 (ii) Federal Home Loan Mortgage Corporation mortgage pools;
- 185 (iii) Federal National Mortgage Corporation mortgage pools;
- 186 (iv) Small Business Administration loan pools;
- 187 (v) Federal Agriculture Mortgage Corporation pools; or
- 188 (vi) other investments authorized by this section;
- 189 (c) qualifying repurchase agreements and reverse repurchase agreements with certified
- 190 dealers, permitted depositories, or qualified depositories using collateral consisting of:
  - 191 (i) Government National Mortgage Association mortgage pools;
  - 192 (ii) Federal Home Loan Mortgage Corporation mortgage pools;
  - 193 (iii) Federal National Mortgage Corporation mortgage pools;
  - 194 (iv) Small Business Administration loan pools; or
  - 195 (v) other investments authorized by this section;
  - 196 (d) commercial paper that is classified as "first tier" by two nationally recognized
  - 197 statistical rating organizations, which has a remaining term to maturity of:
    - 198 (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or
    - 199 (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);
    - 200 (e) bankers' acceptances that:
      - 201 (i) are eligible for discount at a Federal Reserve bank; and
      - 202 (ii) have a remaining term to maturity of 270 days or fewer;
      - 203 (f) fixed rate negotiable deposits issued by a permitted depository that have a
      - 204 remaining term to maturity of 365 days or fewer;
      - 205 (g) obligations of the United States Treasury, including United States Treasury bills,
      - 206 United States Treasury notes, and United States Treasury bonds that, unless the funds invested
      - 207 are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining
      - 208 term to final maturity of:
        - 209 (i) five years or less; or
        - 210 (ii) if the funds are invested by an institution of higher education as defined in Section
        - 211 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less;
        - 212 (h) obligations other than mortgage pools and other mortgage derivative products that:
          - 213 (i) are issued by, or fully guaranteed as to principal and interest by, the following

214 agencies or instrumentalities of the United States in which a market is made by a primary  
215 reporting government securities dealer, unless the agency or instrumentality has become private  
216 and is no longer considered to be a government entity:

- 217 (A) Federal Farm Credit banks;
- 218 (B) Federal Home Loan banks;
- 219 (C) Federal National Mortgage Association;
- 220 (D) Federal Home Loan Mortgage Corporation;
- 221 (E) Federal Agriculture Mortgage Corporation; and
- 222 (F) Tennessee Valley Authority; and

223 (ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust  
224 escrow account, have a remaining term to final maturity of:

- 225 (A) five years or less; or
- 226 (B) if the funds are invested by an institution of higher education as defined in Section  
227 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less;

228 (i) fixed rate corporate obligations that:

229 (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally  
230 recognized statistical rating organizations;

231 (ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

232 (iii) are publicly traded; and

233 (iv) have a remaining term to final maturity of 15 months or less or are subject to a  
234 hard put at par value or better, within 365 days;

235 (j) tax anticipation notes and general obligation bonds of the state or a county,  
236 incorporated city or town, school district, or other political subdivision of the state, including  
237 bonds offered on a when-issued basis without regard to the limitations described in Subsection  
238 (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust  
239 escrow account, have a remaining term to final maturity of:

240 (i) five years or less; or

241 (ii) if the funds are invested by an institution of higher education as defined in Section  
242 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less;

243 (k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or  
244 town, school district, or other political subdivision of the state that are payable from



245 assessments or from revenues or earnings specifically pledged for payment of the principal and  
246 interest on these obligations, including bonds offered on a when-issued basis without regard to  
247 the limitations described in Subsection (7) that, unless the funds invested are pledged or  
248 otherwise deposited in an irrevocable trust escrow account, have a remaining term to final  
249 maturity of:

250 (i) five years or less; or

251 (ii) if the funds are invested by an institution of higher education as defined in Section  
252 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less;

253 (l) shares or certificates in a money market mutual fund;

254 (m) variable rate negotiable deposits that:

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

256 (ii) are repriced at least semiannually; and

257 (iii) have a remaining term to final maturity not to exceed three years;

258 (n) variable rate securities that:

259 (i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally  
260 recognized statistical rating organizations;

261 (B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

262 (C) are publicly traded;

263 (D) are repriced at least semiannually; and

264 (E) have a remaining term to final maturity not to exceed three years or are subject to a  
265 hard put at par value or better, within 365 days; and

266 (ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a  
267 security making unscheduled periodic principal payments other than optional redemptions;

268 [~~and~~]

269 (o) reciprocal deposits made in accordance with Subsection [51-7-17\(4\)](#); and

270 (p) specie legal tender of a commercial specie repository.

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

272 (a) the Employers' Reinsurance Fund created in Section [34A-2-702](#);

273 (b) the Uninsured Employers' Fund created in Section [34A-2-704](#);

274 (c) a local government other post-employment benefits trust fund under Section  
275 [51-7-12.2](#); and

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

278 (5) If any of the deposits authorized by Subsection (3)(a) are negotiable or  
279 nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be  
280 calculated on the basis of the actual number of days divided by 360 days.

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

284 (7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall  
285 ensure that all purchases and sales of securities are settled within:

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

287 (b) 30 days for new issues.

288 Section 3. Section 51-7-17 is amended to read:

289 **51-7-17. Criteria for investments.**

290 (1) As used in this section:

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

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

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

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

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

297 (2) (a) A public treasurer shall consider and meet the following objectives when  
298 depositing and investing public funds:

299 (i) safety of principal;

300 (ii) protection of principal during periods of financial market volatility;

301 (iii) need for liquidity;

302 (iv) yield on investments;

303 (v) recognition of the different investment objectives of operating and permanent  
304 funds; and

305 (vi) maturity of investments, so that the maturity date of the investment does not  
306 exceed the anticipated date of the expenditure of funds.

307 (b) A public treasurer shall invest the proceeds of general obligation bond issues, tax  
308 anticipation note issues, and funds pledged or otherwise dedicated to the payment of interest  
309 and principal of general obligation bonds and tax anticipation notes issued by the state or a  
310 political subdivision of the state in accordance with:

311 (i) Section 51-7-11; or

312 (ii) the terms of the borrowing instrument applicable to those issues and funds, if those  
313 terms are more restrictive than Section 51-7-11.

314 (c) A public treasurer shall invest the proceeds of bonds other than general obligation  
315 bonds and the proceeds of notes other than tax anticipation notes issued by the state or a  
316 political subdivision of the state, and all funds pledged or otherwise dedicated to the payment  
317 of interest and principal of those notes and bonds:

318 (i) in accordance with the terms of the borrowing instruments applicable to those bonds  
319 or notes; or

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

321 (d) A public treasurer may invest proceeds of bonds, notes, or other money pledged or  
322 otherwise dedicated to the payment of debt service on the bonds or notes in investment  
323 agreements if:

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

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

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

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

334 (iii) the investment agreement contains provisions approved by the public treasurer that  
335 provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as  
336 applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating  
337 downgrade of a nonaffiliate guarantor by either S&P or Moody's below the "AA" category or

338 its equivalent, the provider must, within 30 days after receipt of notice of the downgrade:

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

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

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

348 (3) (a) As used in this Subsection (3), "interest rate contract" means interest rate  
349 exchange contracts, interest rate floor contracts, interest rate ceiling contracts, or other similar  
350 contracts authorized by resolution of the governing board or issuing authority, as applicable.

351 (b) A public treasurer may, with the approval of the state treasurer:

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

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

356 (c) Those contracts:

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

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

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

362 (4) A public treasurer shall ensure that all public funds invested in deposit instruments  
363 are invested with qualified depositories within Utah, except:

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

366 (b) reciprocal deposits, subject to rules made by the council under Subsection  
367 51-7-18(2); [or]

368 (c) if national market rates on instruments of similar quality and term exceed those

369 offered by qualified depositories, investments in out-of-state deposit instruments may be made  
370 only with institutions that meet quality criteria set forth by the rules of the council; or  
371 (d) specie legal tender of a commercial specie repository that meets the quality criteria  
372 set forth by the rules of the council.

373 Section 4. Section **51-7-18** is amended to read:

374 **51-7-18. Duties of council.**

375 (1) The council shall:

376 (a) advise the state treasurer and other public treasurers about investment policies;

377 (b) cooperate with the commissioner of financial institutions by promoting measures  
378 and rules that will assist in strengthening the banking and credit structure of the state;

379 (c) at least annually, review the rules adopted under the authority of this chapter that  
380 relate to the deposit and investment of public funds;

381 (d) at least annually, distribute the rules and amendments to rules adopted under the  
382 authority of this chapter that relate to the deposit and investment of public funds to all public  
383 treasurers; and

384 (e) provide, at least semiannually, a list of certified dealers that meet criteria  
385 established by this chapter and council rules.

386 (2) The council may:

387 (a) recommend proposed changes in statutes governing the deposit and investment of  
388 public funds to the Legislature;

389 (b) make rules governing:

390 (i) the financial reporting requirements of qualified depositories in which public funds  
391 may be deposited;

392 (ii) the conditions and procedures for maintaining and revoking a financial institution's  
393 designation as a qualified depository;

394 (iii) the definition of depository capital;

395 (iv) the conditions for maintaining deposits at a permitted depository;

396 (v) the conditions and procedures for maintaining and revoking a primary reporting  
397 dealer's or a broker dealer's designation as a certified dealer;

398 (vi) certified investment advisers who deal with public treasurers, including  
399 establishing standards and requirements for the use, qualification, and regulation of certified

400 investment advisers;

401 (vii) the conditions and procedures for maintaining and revoking a federal covered  
402 adviser's or an investment adviser's designation as a certified investment adviser;

403 (viii) the conditions and procedures by which public treasurers may deposit and invest  
404 public funds;

405 (ix) quality criteria for corporate obligations;

406 (x) the conditions and procedures by which public entities may use interest rate  
407 contracts authorized by Subsection 51-7-17(3); [~~and~~]

408 (xi) quality criteria for a commercial specie repository ~~H~~→ **in consultation with the**  
408a **Department of Financial Institutions** ←~~H~~ ; and

409 [~~(xi)~~] (xii) other rules necessary to carry out its functions, powers, duties, and  
410 responsibilities under this chapter.

411 (3) The council may not make rules requiring a qualified depository to pledge or  
412 deposit any of its assets in order to secure a deposit of public funds, except that public deposits  
413 in excess of the maximum amount shall be collateralized as provided in Subsections  
414 51-7-18.1(5)(b) and (6).

415 (4) Subject to legislative funding, the state treasurer shall supply qualified staff to the  
416 council.

417 (5) If any rule or act of the council would constitute an infringement upon the state  
418 treasurer's constitutional duties and powers to have custody of and invest public money, the  
419 conflicting rule or act is advisory and not mandatory.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**