

**MONEY MANAGEMENT ACT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John Knotwell**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill modifies the State Money Management Act by amending provisions relating to money management.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ specifies the term to final maturity for certain deposits or investments that are invested by a public agency insurance mutual;
- ▶ provides that a certified investment adviser may use the adviser's own approved list of brokers or dealers, subject to rules of the State Money Management Council;
- ▶ authorizes the state treasurer, county, city, and town treasurers, the clerk or treasurer of each school district, and other public treasurers to procure crime or theft insurance;
- ▶ provides that the State Money Management Council may authorize an exception to certain maturity dates in certain circumstances; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

29 AMENDS:

30 **51-7-3**, as last amended by Laws of Utah 2013, Chapters 204 and 388

31 **51-7-11**, as last amended by Laws of Utah 2015, Chapter 171

32 **51-7-11.5**, as last amended by Laws of Utah 2007, Chapter 254

33 **51-7-15**, as last amended by Laws of Utah 2013, Chapters 278 and 388

34 **51-7-23**, as last amended by Laws of Utah 2015, Chapter 171

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

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

38 **51-7-3. Definitions.**

39 As used in this chapter:

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

41 (2) "Certified dealer" means:

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

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

44 (b) a broker dealer who:

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

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

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

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

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

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

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

52 (4) "Commissioner" means the commissioner of financial institutions.

53 (5) "Council" means the State Money Management Council created by Section

54 **51-7-16**.

55 (6) "Covered bond" means a publicly placed debt security issued by a bank, other

56 regulated financial institution, or a subsidiary of either that is secured by a pool of loans that  
57 remain on the balance sheet of the issuer or its subsidiary.

58 (7) "Director" means the director of the Utah State Division of Securities of the  
59 Department of Commerce.

60 (8) (a) "Endowment funds" means gifts, devises, or bequests of property of any kind  
61 donated to a higher education institution from any source.

62 (b) "Endowment funds" does not mean money used for the general operation of a  
63 higher education institution that is received by the higher education institution from:

- 64 (i) state appropriations;
- 65 (ii) federal contracts;
- 66 (iii) federal grants;
- 67 (iv) private research grants; and
- 68 (v) tuition and fees collected from students.

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

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

74 (11) "GASB" or "Governmental Accounting Standards Board" means the  
75 Governmental Accounting Standards Board that is responsible for accounting standards used  
76 by public entities.

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

81 (13) "Higher education institution" means the institutions specified in Section  
82 [53B-1-102](#).

83 (14) "Investment adviser representative" is as defined in Section 61-1-13.

84 (15) (a) "Investment agreement" means any written agreement that has specifically  
85 negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate.

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

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

92 (17) "Market value" means market value as defined in the Master Repurchase  
93 Agreement.

94 (18) "Master Repurchase Agreement" means the current standard Master Repurchase  
95 Agreement approved by the Public Securities Association or by any successor organization.

96 (19) "Maximum amount" means, with respect to qualified depositories, the total  
97 amount of:

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

99 (b) nonqualifying repurchase agreements.

100 (20) "Money market mutual fund" means an open-end managed investment fund:

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

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

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

109 (22) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing

110 indebtedness of a qualified depository arising from the transfer of obligations of the United  
111 States Treasury or other authorized investments to public treasurers that is:

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

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

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

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

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

129 (27) (a) "Public money" means "public funds."

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

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

136 (29) "Qualified depository" means a Utah depository institution or an out-of-state

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

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

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

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

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

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

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

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

159 (33) "State funds" means:

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

162 (b) all other money, funds, and accounts, regardless of the source from which the  
163 money, funds, or accounts are derived, that are owned, held, or administered by the state or any

164 of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories,  
165 or other similar instrumentalities.

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

167 **51-7-11. Authorized deposits or investments of public funds.**

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

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

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

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

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

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

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

182 (i) Government National Mortgage Association mortgage pools;

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

184 (iii) Federal National Mortgage Corporation mortgage pools;

185 (iv) Small Business Administration loan pools;

186 (v) Federal Agriculture Mortgage Corporation pools; or

187 (vi) other investments authorized by this section;

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

190 (i) Government National Mortgage Association mortgage pools;

- 191 (ii) Federal Home Loan Mortgage Corporation mortgage pools;
- 192 (iii) Federal National Mortgage Corporation mortgage pools;
- 193 (iv) Small Business Administration loan pools; or
- 194 (v) other investments authorized by this section;
- 195 (d) commercial paper that is classified as "first tier" by two nationally recognized
- 196 statistical rating organizations, which has a remaining term to maturity of:
- 197 (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or
- 198 (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);
- 199 (e) bankers' acceptances that:
- 200 (i) are eligible for discount at a Federal Reserve bank; and
- 201 (ii) have a remaining term to maturity of 270 days or fewer;
- 202 (f) fixed rate negotiable deposits issued by a permitted depository that have a
- 203 remaining term to maturity of 365 days or fewer;
- 204 (g) obligations of the United States Treasury, including United States Treasury bills,
- 205 United States Treasury notes, and United States Treasury bonds that, unless the funds invested
- 206 are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining
- 207 term to final maturity of:
- 208 (i) five years or less; ~~[or]~~
- 209 (ii) if the funds are invested by an institution of higher education as defined in Section
- 210 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less; or
- 211 (iii) if the funds are invested by a public agency insurance mutual, as defined in
- 212 Subsection [31A-1-103\(7\)\(a\)](#), 20 years or less;
- 213 (h) obligations other than mortgage pools and other mortgage derivative products that:
- 214 (i) are issued by, or fully guaranteed as to principal and interest by, the following
- 215 agencies or instrumentalities of the United States in which a market is made by a primary
- 216 reporting government securities dealer, unless the agency or instrumentality has become private
- 217 and is no longer considered to be a government entity:



- 218 (A) Federal Farm Credit banks;
- 219 (B) Federal Home Loan banks;
- 220 (C) Federal National Mortgage Association;
- 221 (D) Federal Home Loan Mortgage Corporation;
- 222 (E) Federal Agriculture Mortgage Corporation; and
- 223 (F) Tennessee Valley Authority; and
- 224 (ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust
- 225 escrow account, have a remaining term to final maturity of:
- 226 (A) five years or less; [~~or~~]
- 227 (B) if the funds are invested by an institution of higher education as defined in Section
- 228 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less; or
- 229 (C) if the funds are invested by a public agency insurance mutual, as defined in
- 230 Subsection [31A-1-103\(7\)\(a\)](#), 20 years or less;
- 231 (i) fixed rate corporate obligations that:
- 232 (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally
- 233 recognized statistical rating organizations;
- 234 (ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;
- 235 (iii) are publicly traded; and
- 236 (iv) have a remaining term to final maturity of 15 months or less or are subject to a
- 237 hard put at par value or better, within 365 days;
- 238 (j) tax anticipation notes and general obligation bonds of the state or a county,
- 239 incorporated city or town, school district, or other political subdivision of the state, including
- 240 bonds offered on a when-issued basis without regard to the limitations described in Subsection
- 241 (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust
- 242 escrow account, have a remaining term to final maturity of:
- 243 (i) five years or less; [~~or~~]
- 244 (ii) if the funds are invested by an institution of higher education as defined in Section

245 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less; or  
246 (iii) if the funds are invested by a public agency insurance mutual, as defined in  
247 Subsection [31A-1-103\(7\)\(a\)](#), 20 years or less;  
248 (k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or  
249 town, school district, or other political subdivision of the state that are payable from  
250 assessments or from revenues or earnings specifically pledged for payment of the principal and  
251 interest on these obligations, including bonds offered on a when-issued basis without regard to  
252 the limitations described in Subsection (7) that, unless the funds invested are pledged or  
253 otherwise deposited in an irrevocable trust escrow account, have a remaining term to final  
254 maturity of:  
255 (i) five years or less; [~~or~~]  
256 (ii) if the funds are invested by an institution of higher education as defined in Section  
257 [53B-3-102](#), a city of the first class, or a county of the first class, 10 years or less; or  
258 (iii) if the funds are invested by a public agency insurance mutual, as defined in  
259 Subsection [31A-1-103\(7\)\(a\)](#), 20 years or less;  
260 (l) shares or certificates in a money market mutual fund;  
261 (m) variable rate negotiable deposits that:  
262 (i) are issued by a qualified depository or a permitted depository;  
263 (ii) are repriced at least semiannually; and  
264 (iii) have a remaining term to final maturity not to exceed three years;  
265 (n) variable rate securities that:  
266 (i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally  
267 recognized statistical rating organizations;  
268 (B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;  
269 (C) are publicly traded;  
270 (D) are repriced at least semiannually; and  
271 (E) have a remaining term to final maturity not to exceed three years or are subject to a

272 hard put at par value or better, within 365 days;

273 (ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a

274 security making unscheduled periodic principal payments other than optional redemptions; and

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

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

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

278 (b) the Uninsured Employers' Fund created in Section 34A-2-704;

279 (c) a local government other post-employment benefits trust fund under Section

280 51-7-12.2; and

281 (d) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign

282 depository institution as defined in Section 7-1-103.

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

284 nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be

285 calculated on the basis of the actual number of days divided by 360 days.

286 (6) A public treasurer may maintain fully insured deposits in demand accounts in a

287 federally insured nonqualified depository only if a qualified depository is not reasonably

288 convenient to the entity's geographic location.

289 (7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall

290 ensure that all purchases and sales of securities are settled within:

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

292 (b) 30 days for new issues.

293 Section 3. Section 51-7-11.5 is amended to read:

294 **51-7-11.5. Certified investment advisers -- Scope of and limits to authority.**

295 (1) [~~Certified investment advisers~~] A certified investment advisor may not make any

296 investments that are inconsistent with this chapter or rules of the council.

297 (2) [~~Certified investment advisers~~] Except as provided in Subsection (3), a certified

298 investment adviser acting on behalf of a public treasurer shall conduct investment transactions

299 only through qualified depositories, certified dealers, or directly with issuers of the investment  
300 securities.

301 (3) Subject to rules of the council, a certified investment adviser may use the adviser's  
302 own approved list of brokers and dealers.

303 Section 4. Section 51-7-15 is amended to read:

304 **51-7-15. Bonds of state treasurer and other public treasurers -- Reports to**  
305 **council.**

306 (1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of  
307 each school district, and other public treasurers that the council designates by rule shall be  
308 bonded or may procure crime or theft insurance as allowed in Section 17-16-11 in an amount  
309 of not less than that established by the council.

310 (b) The council shall base the minimum bond amount or crime or theft insurance as  
311 allowed in Section 17-16-11 on the amount of public funds normally in the treasurer's  
312 possession or control.

313 (2) (a) When a public treasurer deposits or invests public funds as authorized by this  
314 chapter, the public treasurer and the public treasurer's bondsmen or insurers are not liable for  
315 any loss of public funds invested or deposited unless the loss is caused by the malfeasance of  
316 the public treasurer or a member of the public treasurer's staff.

317 (b) A public treasurer and the public treasurer's bondsmen or insurers are liable for a  
318 loss for any reason from deposits or investments not made in conformity with this chapter and  
319 the rules of the council.

320 (3) (a) A public treasurer shall file a written report with the council on or before January  
321 31 and July 31 of each year.

322 (b) The report shall contain:

323 (i) the information about the deposits and investments of that public treasurer during  
324 the preceding six months ending December 31 and June 30, respectively, that the council  
325 requires by rule; and

326 (ii) information detailing the nature and extent of interest rate contracts permitted by  
327 Subsection 51-7-17(3).

328 (c) A public treasurer shall make copies of the report available to the public at the  
329 public treasurer's office during normal business hours.

330 Section 5. Section 51-7-23 is amended to read:

331 **51-7-23. Transition of investments previously authorized.**

332 (1) Any investment held by a public treasurer that as of June 30, 2015, is not in  
333 compliance with the provisions of this chapter is subject to review by the council.

334 (2) (a) No later than July 31, 2015, a public treasurer who holds an investment  
335 described in Subsection (1) shall provide the council a written report that outlines a reasonable  
336 plan to bring the investment into compliance.

337 (b) A plan described in Subsection (2)(a) is subject to annual review by the council.

338 (c) The council may authorize, with substantial justification, an exception to the  
339 five-year maturity requirements of Section 51-7-11.